

CARIBBEAN COURT OF JUSTICE
Appellate Jurisdiction

ON APPEAL FROM THE COURT OF APPEAL OF BARBADOS

CCJ Appeal No. BBCR2015/004
BB Crim. Appeal No 2 of 2010

BETWEEN

SOMWATTIE PERSAUD

Appellant

AND

THE QUEEN

Respondent

Before The Right Honourable
and the Honourables

Sir Dennis Byron, President
Mr Justice R Nelson
Mr Justice J Wit
Mr Justice D Hayton
Mme Justice M Rajnauth-Lee

Appearances

Mr. Marlon Markland Gordon and Ms. Safiya A. Moore for the Appellant

Mr. Charles Leacock, QC and Mr. Anthony L. Blackman for the Respondent

JUDGMENT
of
the Court

delivered on the 3rd day of February, 2016

JUDGMENT OF THE COURT

Introduction

[1] For the reasons given in the judgment of the President and Justices Wit and Hayton in *Rambarran v The Queen*,¹ Justices Nelson and Rajnauth-Lee dissenting, the Court makes the order set out below.

Order

[2] This following orders are made.

- (i) The appeal is allowed.
- (ii) It is declared that “conviction”, in the context of section 19(1) of the Barbados Criminal Appeal Act, Cap. 113A, means the date on which an accused is sentenced after having been found guilty; and that notice must be given of an appeal or an application for leave to appeal against conviction before twenty-one days have elapsed since the date of conviction.
- (iii) It is declared that the Court of Appeal in its oral decision of 13th March 2015 erred in finding itself *functus officio* and in finding the applications before it for an extension of time to be an abuse of process.
- (iv) The applicant's application for extension of time in which to file an application for leave to appeal her conviction which was filed on 9th February 2015, pursuant to section 19(2) of the above Act, is granted.
and such application for leave to appeal is remitted to the Barbados Court of Appeal for expedited hearing and determination on its merits in accordance with the order that scheduled the hearing on the 21st to 24th July 2014.
- (v) No order is made as to costs.

¹ CCJ Application No. BBCR2015/002

/s/ Dennis Byron

The Rt Hon Sir Dennis Byron (President)

/s/ R F Nelson

The Hon Mr Justice R Nelson

/s/ J Wit

The Hon Mr Justice J Wit

/s/ D Hayton

The Hon Mr Justice D Hayton

/s/ M Rajnauth-Lee

The Hon Mme Justice M Rajnauth-Lee